



February 10, 2012

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MANAGEMENT
St John K. Fiorilla
856.914.2054
jfiorilla@capehart.com

23/838

Via UPS OVERNIGHT

Ms. Cynthia T. Brown
Chief, Section of Administration, Office of Proceedings
Surface Transportation Board
395 F Street S.W.
Washington, D.C. 20423

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**SURFACE
TRANSPORTATION BOARD**

Re: Docket No. FD 35596- **In the Matter of J.P. Rail, Inc. d/b/a Southern RR
Company of New Jersey- Verified Notice of Exemption -Notice of Operation
of Rail Line**

Dear Ms. Brown:

Enclosed for filing please find the original and 10 copies of a Verified Notice of Exemption filed pursuant to 49 C.F.R. § 1150.41 et seq. for J.P. Rail, Inc. a Pennsylvania Corporation, to operate the Salem Branch Rail Line owned by the County of Salem, New Jersey.

Also, enclosed is our client's check for the \$1,800.00 filing fee in this matter and a disc containing a WORD and pdf version of the Petition.

Please time and date stamp the extra copy of this letter and the Petition for Exemption and return it in the enclosed prepaid envelope.

Thank you for your time and attention.

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Office of Proceedings

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Public Record

Sincerely,

CAPEHART & SCATCHARD, P.A.


John K. Fiorilla

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FEB 13 2012

**SURFACE
TRANSPORTATION BOARD**

JKF:cae

Enclosure

cc: Michael Foglietta, SRNJ (w/enc.)
Earl Gage, County of Salem (w/enc.)
2094964

Before the
Surface Transportation Board

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MANAGEMENT
STB

Finance Docket No:

FD 35596

In the Matter
of
JP RAIL, INC.
d/b/a Southern Railroad Company of New Jersey
Operation Exemption - County of Salem, N.J. - a Non-Carrier

VERIFIED NOTICE OF EXEMPTION

NOTICE OF OPERATION OF RAIL LINE

Submitted By:

John K. Fiorilla
Capehart & Scatchard, P.A.
8000 Midlantic Drive Suite 300S
Mount Laurel, N.J. 08054
(856) 914-2054
Counsel for Petitioner

Dated: February 10, 2012

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**SURFACE
TRANSPORTATION BOARD**

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**SURFACE
TRANSPORTATION BOARD**

Before the
Surface Transportation Board

Finance Docket No:

FD-35596

In the Matter
of
JP RAIL, INC.
d/b/a Southern Railroad Company of New Jersey
Operation Exemption - County of Salem, N.J. - a Non-Carrier

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR § 1150.41

Information Required by 49 CFR §1150.43

Name and address of the applicant **49 CFR 1150.43 (a)**

J.P. Rail, Inc. d/b/a Southern Railroad Company of New Jersey
144 West Broadway
Salem, N.J. 08079

Applicant's Representative **49 CFR 1150.33 (b)**

John K. Fiorilla
Capehart & Scatchard P.A.
8000 Midlantic Drive Suite 300S
Mount Laurel, N.J. 08054
856-914-2054
jfiorilla@capehart.com

Statement of Agreement **49 CFR 1150.43(c)**

JP Rail, Inc, a Pennsylvania Corporation and an operating Class III carrier was granted the rights to operate the Salem Branch Rail Line in Salem County, New Jersey, a line owned by the County of Salem, New Jersey, a non-carrier, by the Interstate Commerce Commission in Finance Docket 32700 on October 10, 1995. JP Rail, Inc. had entered into an operating agreement with the owner for these operations.

JP Rail, Inc. continued to operate the line until October 7, 2009 when J.P. Rail, Inc. after entering into a ten year agreement dated July 16, 2003 to operate the Salem Branch Rail Line, assigned, with the consent of Salem County, its rights and obligations under that agreement to US Rail Corporation, another Class III Carrier.

On January 10, 2012, the County of Salem advised US Rail that it was in breach of the assigned agreement.

On February 1, 2012 and through its Board of Chosen Freeholders, the County of Salem passed a resolution re-assigning the operating agreement to J.P.Rail, Inc. and a re-assignment agreement was signed with J.P.Rail, Inc. on February 1, 2012 so that service could resume on the line. A copy of the resolution and Reassignment of Contract with the County of Salem are attached hereto as Exhibits "C" and "D".

The original agreement of July 16, 2003 remains in effect and will terminate on August 31, 2013.

Operator of the Property 49 CFR 1150.43(d)

J.P. Rail, Inc., doing business as Southern Railroad Company of New Jersey will hold itself out to provide common carrier rail freight service pursuant to its operating agreement with the County of Salem, New Jersey.

Brief Summary of Transaction 49 CFR 1150.43 (e)

1. The County of Salem, N.J. a non-carrier, is re-entering into an operating agreement with J.P. Rail, Inc. a Class III carrier to operate between the connection with the Consolidated Rail Corporation at approximately milepost 11.0 in Swedesboro, N.J. to approximately milepost 28.4 in the City of Salem, N.J. J.P. Rail will also operate the Glass House Spur between milepost 0.0 and milepost 1.2 in the City of Salem, N.J. The total route miles to be operated is approximately 18.6 miles.

2. J.P. Rail, Inc. and the County of Salem request that this service resume as soon as possible since there are shippers on the line without rail service at the time of this application.

3. The operation will be from milepost 11.0 in Swedesboro, N.J. to approximately milepost 28.4 in the City of Salem, N.J. J.P. Rail will also operate the Glass House Spur between milepost 0.0 and milepost 1.2 in the City of Salem, N.J.

4. The total route miles to be operated is approximately 18.6 miles.

Map **49 CFR 1150.43 (f)**

A map of the line is attached hereto as Exhibit "A".

Certificate of Carrier Classification **49 CFR § 1150.43 (g)**

J.P. Rail certifies that its projected revenues will not exceed \$5,000,00 and that would qualify it as a Class III carrier, and that this transaction will not result in the creation of a Class I or Class II carrier.

Transactions Imposing Interchange Agreements **49 CFR § 1150.43 (h)**

This operation agreement does not involve a provision or agreement which may limit future interchange with a third party connecting carrier.

Labor Protective Conditions

Pursuant to 49 U.S.C. §10902, labor protective conditions do not apply and will not be imposed.

Caption Summary **49 CFR 1150.44**

A caption Summary in the prescribed form is attached as Exhibit "B" to this Notice.

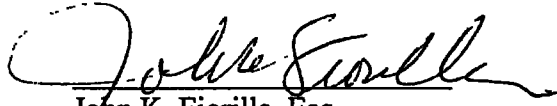
Environmental and Historic Preservation Matters

Pursuant to 49 CFR 1105.6 (c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105.6 (c)(2)(i), because the actions proposed herein will

not cause any operating changes that exceed the thresholds established in 49 CFR 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 49 CFR § 1105.8 (b) (1) . Under this section a sale, lease or transfer of a rail line is exempt since rail operations will continue. J.P. Rail has no plans to alter or to dispose of any properties subject to STB jurisdiction that are fifty years old or older, the transaction does not require an historic report.

Respectfully Submitted,



Dated: February 10, 2012

John K. Fiorilla, Esq.
Capehart & Scatchard, PA
8000 Midlantic Drive Suite 300S
Mount Laurel, N.J. 08054
(856) 914-2054
jfiorilla@capehart.com
Attorney for Petitioner,
J.P. Rail, Inc. d/b/a
Southern Railroad Company of N.J.

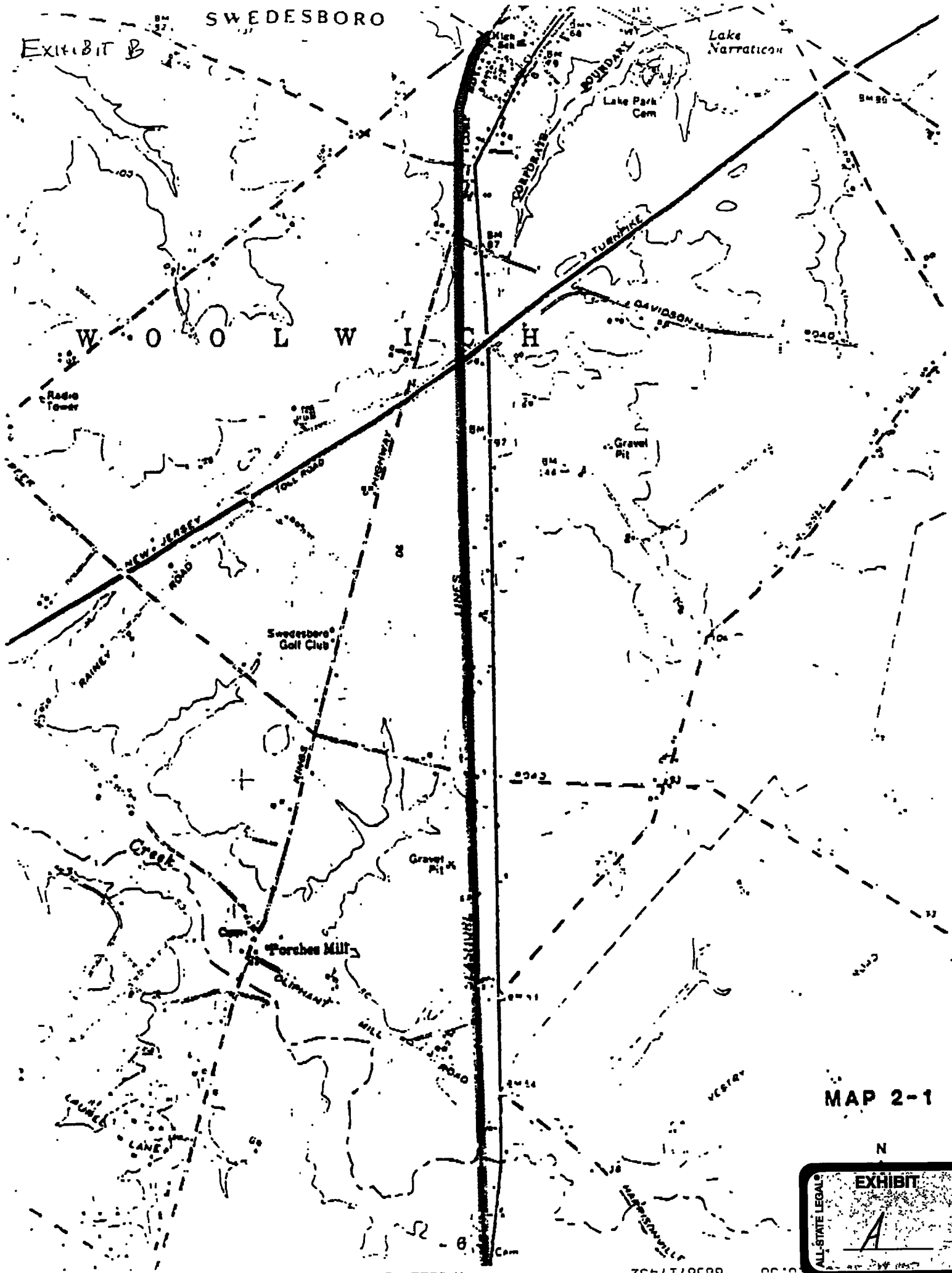
VERIFICATION

I, Michael Foglietta, Chief Operating Officer of the petitioner hereby certifies that I have read the foregoing Notice of Exemption and am knowledgeable of facts stated therein, and that the same are true as stated to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false, that I am subject to punishment.

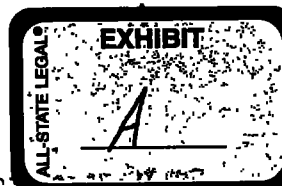
Dated: February 8, 2012

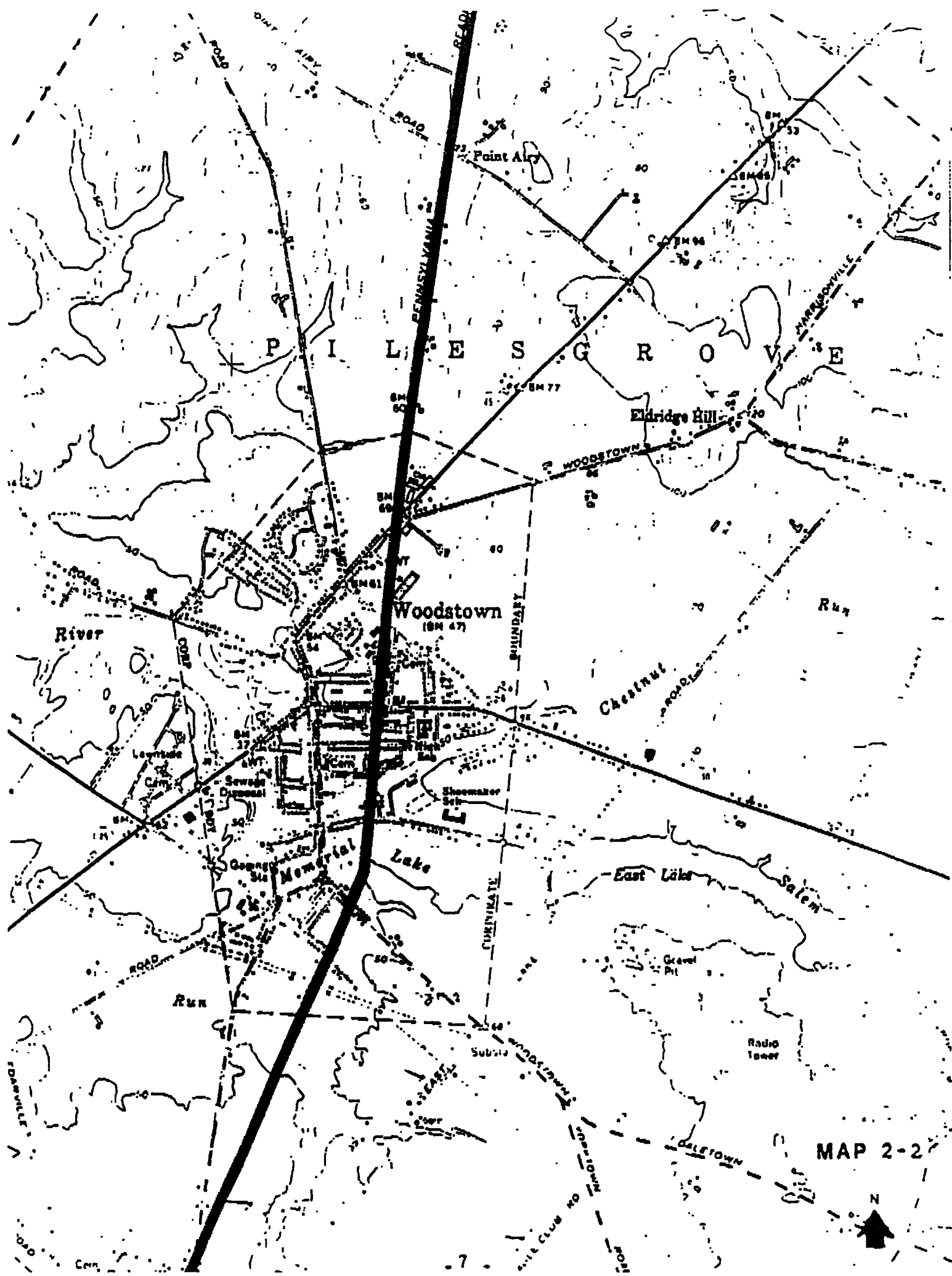

Michael Foglietta

SWEDESBORO
EXHIBIT B



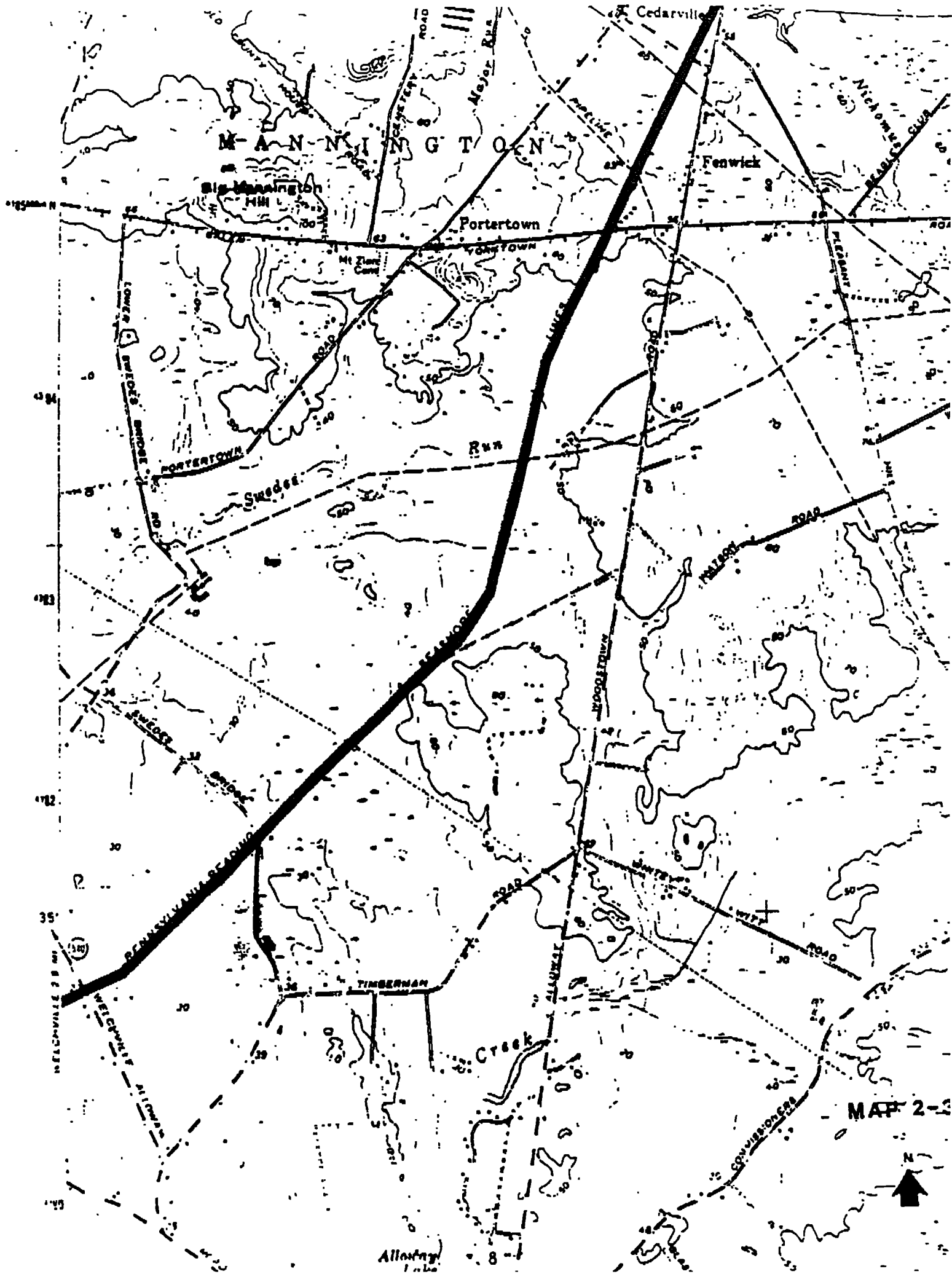
MAP 2-1





MAP 2-2





MEADOW



Exhibit "B"

Before the
Surface Transportation Board

NOTICE OF EXEMPTION

Finance Docket No:

FD- 35596

In the Matter
of
JP RAIL, INC.
d/b/a Southern Railroad Company of New Jersey
Operation Exemption - County of Salem, N.J. - a Non-Carrier

CAPTION SUMMARY

J.P. Rail, Inc. d/b/a Southern Railroad Company of New Jersey, a Pennsylvania Corporation and a Class III carrier has filed a verified notice of exemption under 49 CFR. § 1150.41 to operate as a common carrier 18.6 miles of railroad and appurtenant property owned by the County of Salem, New Jersey a non-Carrier in Salem County, New Jersey. This line will extend from the Consolidated Rail Corporation connection at Swedesboro, N.J. to the City of Salem, N.J. J.P. Rail, Inc. will also operate the Glass House Branch which extends 1.2 miles



within the City of Salem, N.J. Petitioner will operate pursuant to an Operating Agreement with the County of Salem.

Any comments must be filed with the Surface Transportation Board and served on Petitioner's Representative, John K. Fiorilla, Esq., Capehart & Scatchard, P.A., 8000 Midlantic Drive Suite 300S, Mount Laurel, N.J. 08054. Mr. Fiorilla's telephone is (856)-914-2054 and his email address is jfiorilla@capehart.com.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.



Approved as to Form and Legality

Date Adopted

Committee

February 1, 2012

Administrative

**RESOLUTION AUTHORIZING THE RE-ASSIGNMENT OF A
CONTRACT FOR OPERATING THE SALEM COUNTY
RAILROAD BRANCH LINE FOR THE COUNTY OF SALEM**

WHEREAS, the Salem County Board of Chosen Freeholders have previously entered into a contract dated July 16, 2003 for the operation of the Salem County Branch Line by J.P. Rail, Inc., d/b/a Southern Rail of New Jersey; and

WHEREAS, all of Southern's rights and obligations under the Contract were assigned, by mutual agreement of Southern and the County, to US Rail Corporation of New Jersey (hereafter "US Rail") to be effective October 7, 2009 (hereafter the "Assignment"); and

WHEREAS, US Rail is in breach of the Contract and has been duly advised of said breach by the County by letter dated January 10, 2012; and

WHEREAS, by the terms of the letter dated January 10, 2012, US Rail was notified by the County that its contractual relationship with the County was terminated effective the date of said letter; and

WHEREAS, the County wishes to re-assign the Contract to Southern and Southern agrees to accept said re-assignment effective the date of this Re-Assignment Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration receipt of which is hereby acknowledged the parties agree as follows:

1. The Contract dated July 16, 2003 is re-assigned from US Rail to Southern.
2. From the date of this Agreement Southern will be responsible for all terms and obligations of the Contract as will the County.
3. Southern will not be responsible for any damages suffered by the County as a result of US Rail's breach of the Contract.
4. The expiration date of the Contract will remain August 31, 2013.




Julie A. Acton, Director
Board of Chosen Freeholders

I hereby certify the foregoing to be a true resolution adopted by the Board of Chosen Freeholders of the County of Salem on Wednesday February 1, 2012.


EARL R. GAGE
Clerk of the Board

RECORD OF VOTE

FREEHOLDER	AYE	NAY	N.V.	ABSENT	RES.	SEC.	FREEHOLDER	AYE	NAY	N.V.	ABSENT	RES.	SEC.
B. Laury	/				/		B. Bobbitt	/					
D. Cross	/						B. Timberman	/					
R. Vanderslice	/					/	J. Acton	/					
L. Ware	/												

X – Indicates Vote

N.V. – Not Voting

Res. – Resolution Moved

Sec. – Resolution Seconded

**RE-ASSIGNMENT OF CONTRACT
FOR OPERATING THE SALEM COUNTY RAILROAD BRANCH LINE
FOR THE COUNTY OF SALEM**

This Re-Assignment Agreement is made this 1 day of Feb, 2012 between the **COUNTY OF SALEM**, a political subdivision of the State of New Jersey having its principal office located at 98 Market Street, Salem, New Jersey 08079 (hereafter the "County") AND **J.P. RAIL, INC., d/b/a SOUTHERN RAIL OF NEW JERSEY**, a corporation of the Commonwealth of Pennsylvania with its main offices located at 144 W. Broadway, Salem, New Jersey 08079 (hereafter "Southern")

WITNESSETH:

WHEREAS, the County and Southern have previously entered into a Contract dated July 16, 2003 for the operation of the Salem County Branch Line by Southern for the County of Salem ((hereafter the "Contract"); and

WHEREAS, all of Southern's rights and obligations under the Contract were assigned, by mutual agreement of Southern and the County, to US Rail Corporation of New Jersey (hereafter "US Rail") to be effective October 7, 2009 (hereafter the "Assignment"); and

WHEREAS, the County contends that US Rail is in breach of the Contract and has been duly advised of said breach by the County by letter dated January 10, 2012; and

WHEREAS, by the terms of the letter dated January 10, 2012, US Rail was notified by the County that its contractual relationship with the County was terminated effective the date of said letter; and

WHEREAS, the County wishes to re-assign the Contract to Southern and Southern agrees to accept said re-assignment effective the date of this Re-Assignment Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration receipt of which is hereby acknowledged the parties agree as follows:

1. The Contract dated July 16, 2003 is re-assigned from US Rail to Southern.
2. From the date of this Agreement Southern will be responsible for all terms and obligations of the Contract as will the County.




3. Southern will not be responsible for any damages suffered by the County as a result of any US Rail breach of the Contract.

4. The expiration date of the Contract will remain August 31, 2013.


IN WITNESS WHEREOF the parties have set their hands and seals the date as first written above.

Witnessed or Attested By:



**EARL R. GAGE,
CLERK OF THE BOARD OF
CHOSEN FREEHOLDERS OF
SALEM COUNTY**

**BOARD OF CHOSEN FREEHOLDERS
OF SALEM COUNTY**



**BY: JULIE ACTON, DIRECTOR
BOARD OF CHOSEN FREEHOLDERS
OF SALEM COUNTY**

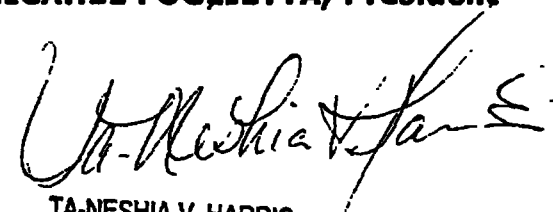
Witnessed or Attested By:

MARK WARD, Secretary

**J.P. RAIL, INC., d/b/a
SOUTHERN RAILROAD COMPANY
OF NEW JERSEY**



BY: MICHAEL FOGLIETTA, President



**TA-NESHIA V. HARRIS
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 2, 2013**

2/3/12